THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte SADASHI SHIMODA

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Appeal No. 1996-2578
Application 08/216,807[1]

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ON BRIEF

_____

Before KRASS, RUGGIERO and LALL, Administrative Patent Judges.

LALL, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the Examiner's final rejection[2] of claims 1 to 7, 9, 12

[1] Application for patent filed March 23, 1994.

[2] An amendment after the final rejection was filed on July 17, 1995 [paper no. 6] and entered in the record for the purposes of this appeal.

and 14. Claims 8, 10, 11 and 13 have been objected to.

The disclosed invention pertains to an electrical delay circuit capable of being formed entirely in a single integrated circuit. The invention is generally used for providing a supply line delay of a predetermined time period after application of a supply voltage to an input. The invention may also be used, for example, for delaying a standard clock signal. In conventional delay circuits, a resistor on the order of several hundred megohms and a capacitor of several microfarads are needed to generate a delay as small as several hundred milliseconds. It is, however, impossible to commonly integrate such a large resistance and capacitance in a single monolithic integrated circuit. The inventive design accomplishes the same result by utilizing components of smaller size in a manner that these components can be easily incorporated in a monolithic integrated circuit. The invention is further illustrated by the following claim.

Representative claim 1 is reproduced as follows:

1. An electric signal delay circuit comprising: input means for detecting an input signal; charge/discharge means connected to the input means and comprising a plurality of charge storage elements and means for selectively charging and discharging the respective charge storage elements in response to detection of an input signal; and delay signal generating means for detecting a charge level of the respective charge storage elements and for

generating an output signal when the detected charge is indicative of a predetermined delay time from detection of the input signal.

The Examiner relies on the following references:

Winebarger	4,260,907	Apr. 7, 1981
Shen	4,591,745	May 27, 1986

Claims 1 to 7, 9, 12 and 14 stand rejected under 35 U.S.C. § 102 as being anticipated by either Shen or Winebarger.

Rather than repeat the arguments of Appellant or the Examiner, we make reference to the briefs[3] and the answer for the respective details thereof.

OPINION

We have considered the rejections advanced by the Examiner and the supporting arguments. We have, likewise,

[3] A reply brief was filed as paper no. 13 and was entered in the record. However, no supplemental answer was given.

reviewed the Appellant's arguments set forth in the brief.

It is our view that claims 1 to 3, 7, 9, 12 and 14 are anticipated by either Shen or Winebarger, while claims 4 to 6 are not. Accordingly, we affirm in part.

We take up these rejections in the order they appear in the answer. In our analysis below, we are guided by the precedence of our reviewing court that the limitations from the disclosure

are not to be imported into the claims. In re Lundberg, 244 F.2d 543, 548, 113 USPQ 530, 534 (CCPA 1957); In re Queener, 796 F.2d 461, 464, 230 USPQ 438, 440 (Fed. Cir. 1986). We are also mindful of the requirements of anticipation under 35 U.S.C. § 102. We must point out, however, that anticipation under 35 U.S.C. § 102 is established only when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of a claimed invention. See RCA Corp. V. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed.

Cir. 1984), cert. dismissed, 468 U.S. 1228 (1984).

Before considering the rejections based on the prior art, we consider the arguments of Appellant and the Examiner regarding the application of the 35 U.S.C. § 112, sixth paragraph as interpreted in In re Donaldson, 16 F.3d 1189, 1193, 29 USPQ2d 1845, 1848-49 (Fed. Cir. 1994). Appellant has argued at length, [brief, pages 20 to 24 and reply brief, pages 9 to 13], what Donaldson stands for and what the court stated in that case. However, Appellant has not effectively responded to Examiner's position that "Appellant has not provided reasons why prior art elements should not be considered equivalents" [answer, pages 4 and 5]. We agree with the Examiner and find that Appellant has not provided us with any specific structure from the specification which is equivalent to the claimed means plus function. Absent that, we conclude that the Examiner is correct in giving the claimed means plus function the interpretation employed in applying the prior art in the rejections on appeal. Now, we consider these rejections.

Rejection of claims 1 to 7, 9, 12 and 14 over Shen

The Examiner has rejected these claims as being anticipated by Shen under 35 U.S.C. § 102. There are three independent claims, namely, 1, 4 and 14. We first consider claim 1. After considering the positions of Appellant [brief, pages 14, 16 to 18 and reply brief, pages 2 to 7] and Examiner [answer, pages 2 to 3], we agree with the Examiner. Shen does show plural storage elements c1, c2 , c3 and c4 and they are being charged and discharged at selective times in response to a change at the input means such as node A. Shen also shows a delay means 14 together with an amplifier 16. This delay means is responsive to the charge level of the storage element c4 which in turn is indicative of a predetermined time delay. Therefore, we sustain the anticipation rejection of claim 1. The other independent

claim, 14, contains similar limitations and in fact is broader than claim 1 because, for example, it only calls for “a plurality of charge storing elements” (claim 14, lines 1 and 2) whereas claim 1 further calls for these storing elements

being connected to other parts of the circuit and being charged/discharged in a prescribed manner. For this reason, claim 14 is also anticipated by Shen like claim 1 as explained above.

With respect to the dependent claims 2, 3, 7, 9 and 12, we note that Appellant has not raised any arguments regarding the claims under this heading individually. The arguments not made are considered waived. See 37 CFR § 1.192 (c)(8)(iv)(1995) ("For each rejection under 35 U.S.C. 103, the argument shall specify the errors in the rejection and, if appropriate, the specific limiations in the rejected claims which are not described in the prior art relied on in the rejection, and shall explain how such limitations render the claimed subject matter unobvious over the prior art."). Cf. In re Baxter Travenol Labs., 952 F.2d 388, 391, 21 USPQ2d 1281, 1285 (Fed. Cir. 1991) ("It is not the function of this court to examine the claims in greater detail than argued by an appellant, looking for nonobvious distinctions over the prior art."); In Reed Wiechert, 370 F.2d 927, 936, 152 USPQ 247, 254 (CCPA 1967) ("This court has uniformly followed the

sound rule that an issue raised below which is not argued in this court, even if it has been properly brought here by reason of appeal is regarded as abandoned and will not be considered. It is our function as a court to decide disputed issues, not to create them."). Therefore, we sustain the anticipation rejection of claims 2, 3, 7, 9 and 12 over Shen.

Regarding independent claim 4, we again evaluate the respective positions of Appellant [brief, pages 14 to 17 and reply brief, pages 2 to 7] and the Examiner [answer, pages 2 to 3]. We find no evidence offered by the Examiner which meets the limitation "generating a first output signal when ... , and generating a delayed second output signal according to the number of first output signals" (claim 4, lines 8 to 11). We, therefore, do not sustain the anticipation rejection of claim 4 and its dependent claims 5 and 6 over Shen.

Rejection of claims 1 to 7, 9, 12 and 14 over Winebarger

The Examiner has rejected these claims as being anticipated by Winebarger under 35 U.S.C. § 102. We first take up the independent claim 1. We have considered the

merits of the

positions of Appellant [brief, pages 13 to 14 and 18 to 20 and reply brief, pages 8 to 9] and the Examiner [answer, pages 2 to 4]. We agree with the Examiner. Winebarger teaches the selective charging and discharging of the charge storage elements (i.e., the capacitors) in response to the input signal at node 12. The output signal POR in Winebarger is delayed by a predetermined amount of time as represented by 82 in figure 3. Thus, as claimed in claim 1, Winebarger shows all the elements.

Therefore, we sustain the anticipation rejection of claim 1 over Winebarger. We next consider the other independent claim 14. As pointed out above, this claim is broader than claim 1 and hence anticipated by Winebarger for the same reasons as claim 1. We sustain the anticipation rejection of claim 14 over Winebarger.

Regarding the dependent claims 2, 3, 7, 9 and 12, we

note again, as above, that Appellant has not presented any separate arguments on their behalf. We, therefore, sustain the anticipation rejection of these claims over Winebarger for the same reasons as claim 1.

With respect to claim 4, after considering the respective positions of Appellant [brief, pages 15 and 18 to 20 and reply brief, pages 8 to 9], we find that the Examiner has not pointed
to any evidence in Winebarger that meets the limitation "generating a first output signal ..., and generating a delayed second output signal according to the number of first output signals" (claim 4, lines 8 to 11). Therefore, we do not sustain the anticipation rejection of claim 4 and its dependent claims 5 and 6 over Winebarger.

In summary, we have sustained the anticipation rejection under 35 U.S.C. § 102 over Shen or Winebarger with respect to

claims 1 to 3, 7, 9, 12 and 14, while we have not so held with respect to claims 4 to 6. Accordingly, we affirm in part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED IN PART

ERROL A. KRASS Administrative Patent Judge	)
JOSEPH F. RUGGIERO Administrative Patent Judge	) BOARD OF PATENT) APPEALS AND) INTERFERENCES
PARSHOTAM S. LALL Administrative Patent Judge	)

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